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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,138	08/20/2003	Daniel T. Yoest	30130-RA	6483
30184	7590	05/24/2004	EXAMINER	
MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C. 1899 POWERS FERRY ROAD SUITE 310 ATLANTA, GA 30339			FIGUEROA, FELIX O	
		ART UNIT	PAPER NUMBER	
			2833	

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/644,138	YOEST, DANIEL T. <i>PW</i>	
Period for Reply	Examiner	Art Unit	
	Felix O. Figueroa	2833	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 21 August 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/25/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

The specification is objected because any abbreviation must be written out initially. Therefore, "LAN" and "WAN" in page 19 line 13, should be written out initially.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second end of the strap being integrally formed with the cover plate, as required by claim 7; the telephone plug, LAN plug, WAN plug, data cable, coaxial cable, appliance outlet, telephone outlet, LAN outlet, WAN outlet and coaxial outlet, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The scope of claim 11 is indefinite because there is an inconsistency within the claims. Claim 10, from which it depends, indicates that the subcombination, a securing

device, is being claimed. However, later claim 11 contains positive limitations directed toward the first and second power cords, suggesting that applicant intends to claim the combination of the securing device and the first and second power cords. Applicant is required to clarify what subject matter the claims are intended to be drawn to and the language of the claim must be amended to be consistent with this intent.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-15, 18, 19, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Elliott et al. (US 4,440,465).

Elliott discloses a power cord plug-securing device, comprising: a clasp member (12) removably and securably retaining a power cord (24) therein; a securing strap (16) in communication with the clasp member; and, a through-hole (18) formed through the securing strap. Regarding the limitation "adapted to receive a screw", it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Regarding claim 2, Elliott discloses the clasp member removably engaging and securely retaining a portion of the power cord immediately aft of the plug head when attached thereto.

Regarding claim 3, Elliott discloses the clasp member is substantially U-shaped.

Regarding claim 6, Elliott discloses a first end of the securing strap being integrally formed with said clasp member.

Regarding claim 7, Elliott discloses a second end of said securing strap being integrally with the electrical outlet cover plate.

Regarding claim 8, Elliott discloses the through-hole is opposingly position from the clasp member on the securing strap.

Regarding claim 9, Elliott discloses a plurality of through-holes formed through the securing strap for purposes of selectively determining site of engagement.

Regarding claim 10, Elliott discloses a power cord plug securing device (Fig.2) comprising: a first clasp member (12, left) for removably and securably retaining a first power cord (21) therein; a second clasp member (12, right) removably and securely retaining a second power cord (24) therein; and, a securing strap (16,17) in communication with the first clasp member and the second clasp member.

Regarding claim 11, Elliott discloses the first power cord being in electrical engagement with the second power cord.

Regarding claims 12 and 13, Elliott discloses a through-hole (18) formed through the securing strap (18). Regarding the limitation "adapted to receive a screw", it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Regarding claim 14, Elliott discloses the first clasp portion member removably engaging and securely retaining the first power cord immediately aft of a plug head attached thereto, and the second clasp member removably engaging and securely retaining a portion of the second power cord immediately aft of a plug head attached thereto.

Regarding claim 15, Elliott discloses the clasp members being substantially U-shaped.

Claims 1-4, 6, 7, 10, 12-16, 18-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenney (US 5,591,043).

Kenney discloses a power cord plug securing device (10) comprising: a first clasp member (29, top) for removably and securely retaining a first power cord (6) therein; a second clasp member (29, bottom) removably and securely retaining a second power cord (not shown) therein; and a securing strap (11) in communication with the first clasp member and the second clasp member.

Regarding claims 12 and 13, Kenney discloses a through-hole (17) formed through the securing strap (18), the through-hole adapted to receive a screw (4).

Regarding claim 14, Kenney discloses the first clasp portion member removably engaging and securely retaining the first power cord immediately aft of a plug head attached thereto, and the second clasp member removably engaging and securely retaining a portion of the second power cord immediately aft of a plug head attached thereto.

Regarding claim 15, Kenney discloses the clasp members being substantially U-shaped.

Regarding claim 16, Kenney discloses the clasp members each comprising a trough region with retaining walls extending therefrom, the retaining walls terminating inwardly projecting ends for securely maintaining the portions of the respective first and second power cords immediately aft of the plug heads within said first and second region.

Claims 10, 11, 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Cross (US 5,211,573).

Cross discloses a power cord plug securing device (60) comprising: a first clasp member (72,80,74) for removably and securely retaining a first power cord therein; a second clasp member (82,88,84) removably and securely retaining a second power cord therein; and a securing strap (68,70) in communication with the first clasp member and the second clasp member.

Regarding claim 14, Cross discloses the first clasp portion member removably engaging and securely retaining the first power cord immediately aft of a plug head attached thereto, and the second clasp member removably engaging and securely retaining a portion of the second power cord immediately aft of a plug head attached thereto.

Regarding claim 15, Cross discloses the clasp members being substantially U-shaped.

Regarding claim 16, Cross discloses the clasp members each comprising a trough region with retaining walls extending therefrom, the retaining walls terminating inwardly projecting ends for securely maintaining the portions of the respective first and second power cords immediately aft of the plug heads within said first and second region.

Regarding claim 17, Cross discloses at least one of the trough regions and the retaining walls are at least partially textured or ribbed (at 80) for increased frictional association with the portions the respective first and second power cords.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caldwell (US 3,811,104) in view of Cross.

Caldwell discloses power cord plug securing device, comprising: a member (between 34) for removable and securably retaining a power cord therein; a securing strap (42,36) in communication with the member; and, a through-hole (44) formed through the securing strap, the through-hole adapted receive a screw. Caldwell discloses substantially the claimed invention except for the member being a clasp member. Cross teaches a securing device comprising a clasp member (98) to provide a tight engagement with the plug cable. Therefore, it would have been obvious to a

person of ordinary skill in the art at the time the invention was made to form the member of Caldwell as a clasp member, as taught by Cross, to provide a tight engagement with the plug cable.

Regarding claim 4, Cross discloses the clasp member comprising a trough region with retaining walls extending therefrom, the retaining walls terminating inwardly projecting ends for securely maintaining the portion of the power cord immediately aft of the plug head within the trough region.

Regarding claim 5, Cross discloses at least one of the through region and the retaining walls being at least partially textured or ribbed (at 114) for increased frictional association with the portion of the power cord retained therein.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Felix O. Figueroa whose telephone number is (571) 272-2003. The examiner can normally be reached on Mon.-Fri., 10:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A. Bradley can be reached on (571) 272-2800 Ext. 33. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2833

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ffr




RENEE LUEBKE
PRIMARY EXAMINER